



DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

[Project No. 1888-043]

York Haven Power Company, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. Application Type: Application for Non-Capacity Amendment of License
- b. Project No: 1888-043
- c. Date Filed: January 26, 2023
- d. Applicant: York Haven Power Company, LLC (licensee)
- e. Name of Project: York Haven Hydroelectric Project
- f. Location: The project is located on the Susquehanna River in Lancaster and York counties, Pennsylvania
- g. Filed Pursuant to: Federal Power Act, 16 USC 791a – 825r
- h. Applicant Contact: Jody Smet, Eagle Creek Renewable Energy, LLC; 7315 Wisconsin Avenue; Suite 1100W; Bethesda, MD 20814; Phone: (804) 739-0654
- i. FERC Contact: Joy Kurtz, (202) 502-6760, Joy.Kurtz@ferc.gov
- j. Deadline for filing comments, motions to intervene, and protests: May 13, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue,

Rockville, Maryland 20852. The first page of any filing should include the docket number P-1888-043. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. **Description of Request:** The licensee requests the Commission amend its project license to reflect a change in the design of the nature-like fishway (NLF) required by Article 401 of the project license, Pennsylvania Department of Environmental Protection's (Pennsylvania DEP) Water Quality Certificate (WQC) and U.S. Fish and Wildlife Service's (FWS) fishway prescription. These conditions require the construction and operation of a NLF based on design criteria and other specifications articulated in the project's 2014 Settlement Agreement. Following significant design challenges with the NLF and subsequent dispute-resolution efforts undertaken by the parties to the Settlement Agreement, the Settlement Agreement was amended to reflect the design change from an in-river NLF to an inland bypass NLF. In order to ensure consistency between the Settlement Agreement and the project license, the licensee is seeking Commission approval to amend the project license to reflect an inland bypass NLF rather than an in-river NLF, including the portion of Article 401(a) that identifies the deadline in which the NLF must be operational, and deadlines in which the licensee must file the plans and specifications, as well as a monitoring plan for the NLF for Commission approval. Finally, the licensee has filed requests with the Pennsylvania DEP and FWS to amend the WQC and fishway prescription, respectively, to reflect the terms of the amended to the Settlement Agreement. Once those documents are amended, the licensee requests they be incorporated into the project license.

l. **Location of the Application:** The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. Agencies may obtain copies of the application directly from the applicant. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll free, (866) 208-3676 or TTY, (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: April 13, 2023.

Kimberly D. Bose,
Secretary.

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